TD/B/42/(1)/6
TD/B/WG.6/7

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

Report of the Ad Hoc Working Group on Trade, Environment and Development on its second session

held at the Palais des Nations, Geneva,
from 6 to 9 June 1995

UNITED NATIONS

Distr.
GENERAL

TD/B/42(1)/6
TD/B/WG.6/7
28 July 1995

Original: ENGLISH

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GE.95-52603 (E)

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INTRODUCTION

1. The second session of the Ad Hoc Working Group on Trade, Environment and Development was held at the Palais des Nations, Geneva, from 6 to 9 June 1995. In the course of the session, the Ad Hoc Working Group held two plenary meetings. 1/

Opening statement

2. The **Officer-in-charge of the International Trade Division** stated that the Working Group's discussions on the trade and competitiveness effects of environmental policies would provide valuable inputs to UNCTAD IX, the WTO Committee on Trade and Environment and to the Commission on Sustainable Development (CSD). With regard to the effects of environmental policies on market access and competitiveness, discussions would focus on the following issues. First, UNCTAD's empirical and analytical work appeared to indicate that the same environmental policies might have different trade and competitiveness effects on developing countries as opposed to developed countries. The second set of issues related to the importance of scale and sector-specific competitiveness effects, and whether special measures might need to be designed for certain sectors and for small-scale firms in order for them to implement environmental standards. Thirdly, Multilateral Environmental Agreements (MEAs) might have effects on the trade flows and competitiveness of developing countries and countries with economies in transition. Positive measures could be used to mitigate the competitiveness effects of environmental policies. In fact, restrictive measures on trade might be counterproductive even for achieving environmental objectives, which might be better served through positive measures, such as, inter alia, trade facilitation, technical assistance, information and technology transfer, firm-to-firm support mechanisms, export diversification, and cost-efficient environmental management policies. Finally, the Working Group's discussions could also indicate the direction of research and capacity-building efforts that might be required to promote both trade and sustainable development. Analysis and debate on eco-labelling, in UNCTAD and elsewhere, had resulted in increased awareness and understanding of a number of problems with eco-labelling, including its potential to discriminate against foreign producers, in particular those from developing countries. Little or no progress had been made in implementing solutions for potential problems when such criteria were applied to imported products.

3. In the short run, improved transparency might be important. The Working Group might wish to make suggestions to eco-labelling agencies and governments, as well as to the Working Group of the International Organization for Standardization (ISO), which was preparing guiding principles. Discussions might also be helpful to those involved in the ISO process at the national level. In the longer run, exploring the scope for "equivalencies" and mutual recognition between eco-labelling schemes seemed to be a useful approach. In this context, the Working Group might wish to discuss how further work on these issues should be undertaken by the secretariat, taking into account UNEP's expertise.

1/ For the terms of reference of the Ad Hoc Working Group on Trade, Environment and Development, see Trade and Development Board decision 415 (XL), annex I (TD/B/40(2)/26, p. 13).

Chapter I

EFFECTS OF ENVIRONMENTAL POLICIES, STANDARDS AND REGULATIONS ON MARKET ACCESS AND COMPETITIVENESS, WITH SPECIAL REFERENCE TO DEVELOPING COUNTRIES, INCLUDING THE LEAST DEVELOPED AMONG THEM, AND IN THE LIGHT OF UNCTAD EMPIRICAL STUDIES

(Agenda item 2)

and

TRADE, ENVIRONMENT AND DEVELOPMENT ASPECTS OF ESTABLISHING AND OPERATING ECO-LABELLING PROGRAMMES

(Agenda item 3)

4. For its consideration of agenda items 2 and 3, the Ad Hoc Working Group had before it the following documentation:

> "Environmental policies, trade and competitiveness: conceptual and empirical issues" - Report by the UNCTAD secretariat (TD/B/WG.6/6).
>
> "Trade, environment and development aspects of establishing and operating eco-labelling programmes" - Report by the UNCTAD secretariat (TD/B/WG.6/5).

5. The **Chief of the Trade and Environment Section** grouped the major points raised in the secretariat's report "Environmental policies, trade and competitiveness: conceptual and empirical issues" (TD/B/WG.6/6) into three sets of issues: (i) trade and competitive effects of domestic and external environmental policies; (ii) the trade and competitiveness effects of Multilateral Environmental Agreements (MEAs); (iii) the identification of positive measures and a discussion on further empirical research to be undertaken, inter alia, through country case studies.

6. Regarding the first issue, the report took three lines of argument. First, that, on the whole, it might be easier and less expensive for firms to comply with domestic environmental regulations, policies and measures, rather than external ones, even when domestic regulations were more stringent. Domestic environmental policies could be tailored to take account of the environmental and development situations to which they applied, and technology was generally available to address domestic environmental problems. In many cases, cooperation between government and industry had been successful in achieving pollution reduction along with economic growth.

7. The second issue was that it might be more expensive, in relative and even absolute terms, for producers in developing countries to comply with specific standards than for producers in developed countries. Among the reasons for this were poor infrastructure, unavailability of technology and raw materials needed to meet environmental requirements and difficulties in disseminating information on standards and in monitoring compliance. Moreover, since a significant part of developing countries' experts were homogeneous products competing on a price basis, product differentiation on

the basis of environmental quality was difficult to determine. Firms in developing countries would thus have cost increases resulting from environmental regulations.

8. The third set of issues centred on the factors that influenced the competitiveness effects of a given environmental measure. Economic growth, openness and innovation had been identified as three important factors that might help to mitigate the competitiveness effects of environmental policies.

9. The report also pointed out that more analysis was needed on the trade and competitiveness effects that might arise from the provisions of certain MEAs. It might be useful to identify factors that could be kept in mind when new agreements were negotiated or existing agreements renegotiated. That list might also be useful for interim assessments of the MEAs.

10. It might be useful to list some positive measures that could assist developing countries in their efforts to enhance environmental protection. The Commission on Sustainable Development (CSD), at its third session, had invited UNCTAD to undertake a vast amount of work on environmental policies and competitiveness and to examine how positive measures could support developing countries and countries in transition to internalize their environmental costs and meet their obligations under MEAs. The secretariat looked forward to an intensive interaction with the Working Group in response to CSD's invitation.

11. Turning to UNCTAD's technical assistance programme on trade and environment, he said that, in cooperation with UNDP and UNEP, empirical studies would be carried out in more than 20 developing countries and countries in transition. In expert meetings held in Geneva and New York, it had been suggested that, after the first round of studies, which had purposely been based on broad and flexible guidelines, future studies could focus on more specific issues, following a common methodology. It had also been suggested that it would be useful to include a number of new issues, in particular: (i) the applicability of economic instruments, including taxes and charges, for environmental purposes, in developing countries; (ii) the differential effects of environmental policies, standards and regulations on small- and medium-sized firms (SMEs) versus large firms; (iii) developing countries' concerns and experiences with developed countries' exports of domestically prohibited goods (DPGs); and (iv) sectoral, cross-country studies.

12. The representative of **Pakistan** said that developed countries, having themselves consumed the environmental space needed for development, were now denying the developing countries the right to develop by imposing strict environmental regulations on their exports. Such measures were unilateral in nature and did not take the development perspective into consideration. He quoted a study carried out in Pakistan that had concluded that strict environmental regulations increased bureaucracy; that regulation hindered productivity in firms; that the distributive effects of tighter emission controls affected the poor in particular; that strict environmental controls had a tendency to increase inflation; and that end-of-pipe treatment only solved local environmental problems. It was evident that unilateral environmental regulations imposed on exports of developing countries could serve as a protectionist barrier to trade.

13. He also raised the point that, in the absence of financial assistance to promote environmental policies, exports from developing countries should not be subject to environmental standards as they constituted barriers to trade. While environmental costs were less than 1 per cent of the GNP of developed countries, they might account for 6 to 7 per cent of the GNP of developing countries, which pointed up the inequity of imposing the same environmental policies on developing countries. He was worried about packaging and labelling requirements, which were not covered by the Technical Barriers to Trade (TBT) agreement. Such requirements had the potential to restrict market access significantly; in fact, he regarded the private sector's voluntary measures as more of a concern than environmental regulations, due to their lack of transparency.

14. On eco-labelling, he said that in most cases PPMs do not physically affect the environment of the importing country and that therefore there was no justification under the multilateral rules for applying trade restrictions based on production and process methods (PPMs).

15. Finally, he appealed to developed countries to provide financial resources and free transfer of cleaner technology to promote the creation of sound environmental policy in developing countries.

16. The representative of **Australia** considered that the UNCTAD/UNDP and UNCTAD/UNEP country studies were a major contribution to a more informed debate on trade and environment issues, in particular because they brought a solid base of empirical information. The empirical finding that environmental regulations had not appeared to have had significant competitiveness effects should inform domestic policy-making. However, more analysis was needed on the competitiveness effects of environmental taxes; on the notion that the competitiveness effects of environmental regulations might be more important for commodities than for industrial products; and on the role of the openness of an economy in the link between environmental policies and competitiveness. Improvements in infrastructure had been helpful in lessening the scope for environmental standards to have competitiveness effects, and had been important in achieving environmental improvements in related areas. Since policies that had been directed at environmental concerns could have positive economic benefits in a broad sense, the debate on environmental policies and competitiveness should not have been seen as a trade-off between economic growth and environmental improvements.

17. There had been a need to ensure that eco-labelling was sensitive to different environmental and developmental conditions in different countries. Moreover, there had been a range of significant issues which might limit the potential contribution of eco-labelling in reducing environmental stress in developing countries. Initiatives in relation to transparency, product coverage of schemes, and further work on the mutual recognition of eco-labelling schemes were needed to take into account the concerns of foreign producers.

18. Finally, he felt that the work of the Ad Hoc Working Group should continue to highlight the valuable empirical studies being done by UNCTAD. The experiences of developing countries in relation to trade reform and the environment, and the economic and trade aspects of environmental policies, could be considered. The situation of small firms in developing countries

posed particular challenges: those firms might face greater difficulties in adapting to environmental policies, and often might also have a more serious environmental impact than larger firms. The Working Group should also identify areas in which technical cooperation should be strengthened.

19. Regarding agenda item 2, the representative of **Cuba** stressed the negative effects on the economic, social, technological and environmental areas of the economic blockade imposed on Cuba by the United States of America. He stated that the blockade caused losses of US$ 41,000 million. He identified a series of its negative impacts: reduced availability of fuel for cooking purposes had slowed the process of reforestation; food shortage had led to illegal hunting and uncontrolled devastation of pasture areas within forests; deficient supplies and treatment of drinking water due to lack of machinery; lack of fuel, spare parts and equipment had affected the methods and frequency of waste management; the frequency of garbage collection had been reduced and rubbish dumps had increased; low-quality technologies had led to more costly and less efficient and less environmentally-friendly production processes; there was a lack of financial resources for environmental projects; and there were obstacles to the promotion of exports of environmentally-friendly products.

20. The representative of the **United States of America** commended the secretariat for its reports which, in general, presented an objective appraisal of these complex issues based on a great deal of research. In particular, she was encouraged by a discussion of eco-labelling that considered its effects on the environment as well as on trade. She was, however, somewhat disappointed at the report's tendency at times to draw broad operational conclusions from anecdotal information. For example, in the report on eco-labelling, the lack of real market experience with eco-labelling was discussed, but then some specific statements were made about the trade impacts of such measures.

21. The report on environmental policies, trade and competitiveness also began with anecdotal information on the impacts of MEAs on trade and competitiveness, and then jumped to policy conclusions. In this connection, she noted that the MEA example given covered an agreement that had anticipated some displacement and had its own specific compensatory mechanism. Paragraph 117 tried to draw a broad conclusion stating a general need for compensatory mechanisms in MEAs, which did not appear to be supported by the limited information in the report. Each MEA was unique. The need for trade measures, compensatory mechanisms or other features had to be looked at on a case-by-case basis in the light of the subject-matter of the MEA in question. She believed it would have been useful to attempt a definition of competitiveness to put the report into a better context. For example, although the report appeared to focus on individual firms or sectors, it also seemed to be considering the competitiveness of an entire country. It seemed to argue that competitiveness was equivalent to cost-benefit analysis - an argument with which she disagreed. Cost-benefit analysis was not the only way to prioritize. In the report itself, it had been noted that rigorous cost-benefit analysis was often difficult, if not impossible, due to the difficulty of quantifying environmental benefits accurately.

22. One aspect that seemed to be omitted in the report was the role that taxation policies could play in internalizing environmental costs, which had been recognized in the Rio Declaration as a key objective.

23. Finally, she found the discussion on DPGs to be out of place, as the report had not made a case for DPGs being a competitiveness issue. She was also somewhat puzzled that, while in some parts of the report, the point that environmental regulations reflected different societal values and choices had been underlined, that perspective was notably absent in this section. The report appeared to assume that it was proper for a developed country to impose its choices, which might not be shared by other developed countries, on developing countries. This was really the core issue in DPGs.

Chapter II

PROCEEDINGS OF THE 2ND (CLOSING) PLENARY MEETING

A. Closing statements

24. The representative of **Finland**, referring to the proposal that a two-day topical seminar be held on trade, environment and development as part of the preparations for UNCTAD IX, stated that his Government had accepted to host the seminar, in cooperation with UNCTAD. This issue had been acquiring increasing importance in UNCTAD's work programme and was on the agenda of UNCTAD IX. The purpose of the seminar would be to discuss trade, environment and development linkages in the context of a globalizing and liberalizing world economy, in order to advance consensus-building on these issues. The seminar would be held in Helsinki, in January 1996. Local costs and travel expenses of a certain number of developing countries would be covered by the host Government.

25. The representative of **Venezuela** said that the reports submitted by the secretariat and the discussions at the current session of the Working Group indicated that certain aspects of competitiveness and eco-labelling that were of fundamental interest to the developing countries were not receiving sufficient attention in the environmental policies adopted by the industrialized countries. It was common knowledge that the developing countries were at a disadvantage when it came to complying with environmental policies that restricted economic and trade activity. This stemmed from their own development conditions and pointed to the need for a more comprehensive approach when designing and introducing norms and standards - whether binding or non-binding - that affected the trade and development of all countries. The comparative disadvantages of the developing countries in terms of financial, technological or infrastructural capacity could, in his view, be alleviated by assigning due priority in environmental policy instruments to recognizing the diverse environmental conditions among countries and the financial and technological difficulties faced by developing countries in meeting the exacting norms established in the industrialized countries. Such an approach would be founded on mutual recognition of differentiated/dissimilar technical norms and standards or on mechanisms that took account of the appropriateness of environmental policies in the producing countries. His delegation had in fact detected signs of a positive trend in the stance of the industrialized countries, as when OECD and other delegations had stated that there was no substance in the allegations of eco-dumping. There were thus points of convergence that gave grounds for some optimism. The Working Group should now urge organizations such as ISO, which were engaged in fundamental work on the guiding principles for eco-labelling and on other aspects, to seek to ensure recognition of the validity of environmental priorities and of differentiated norms and standards.

26. The representative of **Romania** said that, although the criteria for different eco-labelling schemes were similar for both developing and developed countries, the operating system of those schemes could discriminate against foreign producers because the strict provisions contained in them might not be justified for the environmental conditions in the producing countries. Therefore, he felt that a more appropriate approach could be to exempt foreign

producers, on a case-by-case basis, from fulfilling certain of those criteria regarding PPMs. Future work on transparency, mutual recognition and equivalency concepts should also be undertaken.

27. Although companies in developing countries and countries in transition were not regarded as small- and medium-sized companies because of their structure and number of employees, they should nevertheless be included in this category from a financial standpoint and when analysing the impact different environmental measures had on them.

28. With regard to technical assistance, he felt that two aspects were particularly important. First, since eco-labelling was an increasingly important issue, it should be the focus of technical assistance. Secondly, since developing countries and countries in transition had difficulties with appropriate national infrastructure and lack of funds, more work could be undertaken to identify all possibilities for technical assistance developed by various organizations.

29. The observer from the **International Chamber of Commerce** (ICC) pointed out that many programmes were in place in business and industry that aimed to promote responsible environmental behaviour. It was difficult to identify goods that might be more environmentally sound than others, and therefore some labelling schemes might be misleading and distort the market. Environmental claims should be based on consistent definitions and be related to objectively established criteria. Regarding claims made by producers or distributors on behalf of their own products, he said that ICC's international codes of advertising practice and environmental advertising, as well as similar national and international codes, set some basic standards. He considered that the market demand for eco-labelling schemes should be determined before embarking on projects to develop criteria. Producers and customers must have confidence that the criteria developed for eco-labels were scientifically based and applied fairly; that they would serve environmental protection; and that they would not be changed arbitrarily. He recognized the danger that labels would continue to be established on a country-by-country basis, without common structures and criteria. He argued that environmental labels should not be obligatory, but noted that even voluntary schemes could in practice become mandatory and a factor of competitiveness at the commercial level. Differences in criteria might also become a substantial non-tariff barrier to trade and could distort competition.

30. Finally, he stated that the two most important principles called for by the ICC were: (i) that all groups with a substantive interest in eco-labelling schemes must be adequately represented when the schemes were established and throughout their operation; and (ii) that all companies should have equal access to those schemes, irrespective of their nationality or type of ownership.

31. The observer from the **World Wide Fund for Nature** stated that environmental labels which were based on clear criteria, transparent and verifiable procedures and third-party certification could be a useful tool for promoting conservation and sustainable development. Innovative solutions to problems such as setting international standards and the need for mutual recognition had been found in NGO schemes that promoted certification of organic agriculture and forest management. For example, the Forest

Stewardship Council had developed a set of generic Principles and Criteria that applied to forests worldwide. However, in the certification process, specific national standards were used, which avoided the potential problem of standards from importing countries being imposed on producers. ISO could make an invaluable contribution to the debate on environmental labelling. There were, however, a number of reasons why, at this stage, it would be unwise and inappropriate for ISO to develop a sustainable forest management standard.

32. The representative of the **United Republic of Tanzania** observed that very few African delegations had been able to participate in the current session of the Working Group. In addition to the usual difficulties they faced, these delegations had been hampered by the scheduling of two intergovernmental meetings in the same week. He therefore appealed to the secretariat to avoid convening two meetings simultaneously and to provide whatever support it could to facilitate the participation of African and, in particular, least developed countries.

B. Action by the Ad Hoc Working Group

33. At the 2nd (closing) meeting, on 9 June 1995, the Chairman introduced a summary of the views expressed and the discussions held during the session, which he had prepared as a result of informal consultations.

34. At the same meeting, the Ad Hoc Working Group took note of the Chairman's summary and decided to annex it to the report on its second session. (For the text of the summary, see annex I.)

C. Comments made after the approval of the Chairman's summary

35. The representative of **Argentina** observed that the Chairman's text represented a very good summary of the discussions held during the session. He wished to make the following brief comments solely for the purpose of clarifying his delegation's understanding on certain points:

- Paragraph 13

  While valid, the concepts could rather have been stated in the reverse order, as follows:

  > "While the removal of trade distortive and environmentally harmful subsidies may not be sufficient, it is nevertheless a necessary step to ensure environmental protection."

- Paragraph 16

  Referring to the studies cited in this paragraph, he said that his delegation felt very strongly that there should also be studies on the environmental and competitiveness effects of distortions in the price-setting mechanisms and of such economic instruments as subsidies and taxes.

- Paragraph 23

  He would have wished to see the first part of the second sentence read:

  > "While eco-labelling programmes should primarily be established for environmental purposes ... ".

- Paragraph 26

  He felt that the emphasis placed on the "market" in the third sentence could lead to underestimating the importance of other aspects, such as the possibility of benefiting from inputs available in the production area.

36. The representative of **Brazil** said that, while the Chairman's summary covered most of the issues that his delegation had raised, he wished to record the following points of importance to his delegation that had not been included in the summary. The first concerned subsidies: he too would have wished to see paragraph 13 reformulated along the lines proposed by Argentina. Secondly, he believed that there was a need for international discussions on eco-labels in order to establish guidelines or disciplines, not only to avoid the eventual trade effects they might have, but also to preserve the credibility of the eco-labels themselves. He outlined some ideas of what such disciplines might involve and hoped that the non-paper to be prepared by the secretariat would reflect those considerations and also set forth the positive measures.

37. The representative of **Mexico** said that her comments were aimed at emphasizing certain points of particular interest to her delegation.

- Paragraph 5

  It emerged clearly from this paragraph that the effects on competitiveness of environmental standards and policies could be differentiated according to whether they were felt in the short or long term, and also whether they were positive or negative. Regarding the third sentence, her delegation felt that the balance between gains and losses was not necessarily linked to standards as such but rather to the fact that certain industries or sectors, in complying with these standards, would have to make use of equipment, technology and environmental services that were not necessarily confined to the sectors in question. This favours the development of new industrial sectors to provide the required equipment and services and new market niches. Here, the balance of advantage weighed heavily in favour of the developed countries.

- Paragraph 9

  Her delegation agreed with the statement in the last sentence that "requiring foreign producers to meet domestic standards and regulations of the importing country was questioned by many delegations on the grounds that social preferences and environmental conditions of one country were not necessarily shared

by others". But she thought there was also an international law problem of extraterritoriality and that the WHO rules did not cover the measures involved.

- Paragraph 13

On this paragraph she agreed with the comments made by the representative of Argentina concerning the emphasis to be given to "necessary" and "sufficient". Her delegation was also interested in having studies undertaken in order to see how the issue of environmental and production subsidies could be approached with a view to improving the environment.

- Eco-labelling

Her delegation was concerned that the trade-distorting and discriminatory effects of voluntary eco-labels on imports were as great as - if not greater than - the compulsory eco-labels. It therefore took the view that the distinction between "voluntary" and "compulsory" was increasingly vague. It would be more appropriate to distinguish between unilateral measures and measures based on international standards. Her delegation therefore favoured international disciplines in the field of eco-labelling, and hoped to see UNCTAD and UNEP working towards the elaboration of guidelines or possible criteria for future disciplines in this area.

38. The representative of **Venezuela**, referring to paragraph 9 of the Chairman's summary, agreed with the representative of Mexico that the difficulty of meeting the domestic standards of the importing country was not just a matter of "social preferences" or "environmental conditions", but also raised problems relating to the application and administration of multilateral norms, particularly in the framework of WTO. It was essential to avoid the violation of fundamental trading principles such as non-discrimination with regard to national treatment and the application of the most-favoured-nation (MFN) clause.

39. With reference to paragraph 28 of the Chairman's summary, he said that his delegation would have wished to see the last phrase of the final sentence amended to read as follows: "... application of the environmental priorities and legislation of the importing country".

Chapter III

ORGANIZATIONAL MATTERS

A. Opening of the session

40. The second session of the Ad Hoc Working Group was opened on 6 June 1995 by Mr. F. Abbate, Officer-in-charge of the International Trade Division, in the absence of the Chairman, Mr. Hynninen (Finland), who had to leave Geneva for another appointment.

B. Bureau of the Ad Hoc Working Group

41. At its opening meeting on 6 June 1995, the Ad Hoc Working Group elected Mr. B. Ekblom (Finland) to replace Mr. A. Hynninen (Finland) as Chairman of the Group. The Bureau for the second session was thus as follows:

Chairman:	Mr. B. Ekblom	(Finland)
Vice-Chairmen:	Mr. S. Djajadiningrat	(Indonesia)
	Mrs. R. Mrabet	(Tunisia)
	Mr. G. Thielen Graterol	(Venezuela)
	Mr. B. Diekmann	(Germany)
	Mr. Y. Afanassiev	(Russian Federation)
Rapporteur:	Mr. B. Alipour	(Islamic Republic of Iran)

C. Adoption of the agenda and organization of work

(Agenda item 1)

42. At the same meeting, the Ad Hoc Working Group adopted its provisional agenda (TD/B/WG.6/4) as follows:

1. Adoption of the agenda and organization of work

2. Effects of environmental policies, standards and regulations on market access and competitiveness, with special reference to developing countries, including the least developed among them, and in the light of UNCTAD empirical studies

3. Trade, environment and development aspects of establishing and operating eco-labelling programmes

4. Provisional agenda for the third session of the Ad Hoc Working Group

5. Other business

6. Adoption of the report of the Ad Hoc Working Group to the Trade and Development Board.

D. Provisional agenda for the third session of the Ad Hoc Working Group

(Agenda item 4)

43. At its 2nd (closing) meeting, the Ad Hoc Working Group approved the provisional agenda for its third session. (For the provisional agenda, see annex II.)

E. Adoption of the report of the Ad Hoc Working Group to the Trade and Development Board

(Agenda item 6)

44. Also at its closing meeting, the Ad Hoc Working Group adopted its draft report (TD/B/WG.6/L.4), with minor amendments, and authorized the Rapporteur to complete the report in the light of the proceedings of the closing plenary.

ANNEXES

Annex I

CHAIRMAN'S SUMMARY

1. The second session of the Ad Hoc Working Group on Trade, Environment and Development discussed the competitiveness effects of environmental policies, standards and regulations and the trade, environmental and developmental effects of eco-labelling. The Group's discussions were aided by the high-quality documents prepared by the UNCTAD secretariat. It was recognized that more analysis and discussion of the topics were needed, bearing in mind that the issue of trade and environment also figured on the agenda of UNCTAD IX.

I. Market access and competitiveness

2. The Group's discussions focused on three sets of issues: (a) environmental policies and competitiveness; (b) trade and competitiveness effects of Multilateral Environmental Agreements (MEAs); and (c) future issues for research.

Environmental policies and competitiveness

3. The importance and complexity of the issue of environmental policies, standards, and regulations and competitiveness were generally acknowledged. A further elaboration of the factors affecting competitiveness - at the level of sectors, enterprises and countries - was called for.

4. The Group found it useful to consider competitiveness at both the firm and national levels. It was suggested that the focus, nevertheless, should be on the competitiveness of firms, in particular those of developing countries, in the international markets.

5. At the firm level, the difference between the short- and long-term effects should not be neglected. While the short-term competitiveness effects could be negative, in many sectors the long-term effects were more likely to be positive. At the national level, it was felt that the loss in competitiveness of some sectors might be compensated by gains in others, these possibilities being higher in dynamic economies. At the same time, it was recognized that these options were more limited in countries whose export basket comprised a few products.

6. It was felt necessary to look into the impact of environmental policies, standards and regulations on competitiveness, with respect to both different sectors and types of enterprises. For example, small and medium-sized companies might find compliance with strict environmental standards relatively more difficult. All sectors are not equally affected by environmental requirements and further study of the differences in this regard was felt necessary.

7. The difference in the competitiveness impact of similar environmental policies, standards and regulations on developing and developed countries was emphasized. For example, the scale effects might be differentially felt by

developed and developing countries. The same differentiation was emphasized in respect of sectors. Particular attention was paid to factors such as the openness of the economy, economic growth, the capacity for technological innovation and appropriate infrastructure.

8. There was recognition that the subject of environmental policies, standards, and regulations and competitiveness could not be studied in isolation from macroeconomic conditions, environmental problems and priorities, and pressing economic and social difficulties.

9. There was some discussion on the legitimacy aspects of certain environmental measures. With regard to product standards and regulations, it was recognized that, even if they were legitimate, they might nevertheless have unintended competitiveness effects on trading partners. With regard to process-related standards and regulations, requiring foreign producers to meet domestic standards and regulations of the importing country was questioned by many delegations on the grounds that social preferences and environmental conditions of one country were not necessarily shared by others.

10. More analysis was called for in support of alternative measures for dealing with the negative impact of environmental policies, standards and regulations on competitiveness. The importance of transparency in respect of environmental standards and regulations was emphasized. In addition, a need to identify, on a case-by-case basis, the appropriate technical and/or financial assistance required by developing countries was stressed. Special attention should be given to the least developed countries.

11. The Group found that both domestic regulations and regulations emerging from export markets could pose a challenge for companies. However, since, in the formulation of domestic environmental regulations, local firms had greater access than foreign firms to the decision-making process, domestic regulations might be less predisposed to induce adverse competitiveness effects on domestic firms.

12. It was felt that the level of environmental protection was only one of many factors potentially affecting competitiveness. The Group endorsed one of the conclusions contained in the Report on Trade and Environment to the OECD Council at Ministerial Level, which states that "OECD Governments firmly reject demands sometimes made to introduce so-called green countervailing duties or other protectionist or WTO inconsistent trade measures, to compensate for negative competitiveness effects, whether real or perceived, of environmental policies".

13. It was found that free trade, improved market access, and the removal of trade distortive and environmentally harmful subsidies, while necessary, might not be sufficient to ensure environmental protection.

Trade and competitiveness effects of MEAs

14. It was agreed that further work on both positive and negative trade and competitiveness impacts of MEAs was necessary. Such work should run parallel with the analysis of compensatory/cooperative measures under different MEAs. It was noted that each MEA was different and should be looked at separately. A need to analyse the Montreal Protocol, the Basel Convention and the

Convention on Trade in Endangered Species (CITES), among others, was identified. Some delegations argued that MEAs that did not contain trade provisions might nevertheless have trade effects. It was also felt necessary to study the environmental effects of MEAs.

Further work

15. It was considered that UNCTAD's country case studies provided useful empirical contributions to the deliberations of UNCTAD's intergovernmental bodies.

16. In the context of UNCTAD's technical cooperation activities, reference was made to a number of issues covered by such studies, in particular:

- trade and competitiveness effects of MEAs;
- the differential effects of environmental policies, standards and regulations on small and medium-sized firms versus large firms;
- sectoral, cross-country studies;
- the applicability of economic instruments, including taxes and charges, for environmental purposes in developing countries;
- developing countries' concerns and experiences with developed countries' exports of domestically prohibited goods (DPGs).

17. Further work on the costs of late implementation of MEAs and on the competitiveness effects on non-signatories was deemed necessary. A need to examine whether trade and competitiveness effects of MEAs were more negative in developing countries was underlined. Finally, international cooperation and positive measures were considered as appropriate ways of promoting participation in MEAs.

18. Further work on the competitiveness effects of environmental policies, standards and regulations on small and medium-sized firms, taking into account their importance in the exports of developing countries, and in particular the least developed among them, was identified as an important issue.

19. With regard to sectoral studies, suggestions were made that they could include sectors that produced low-value-added products, and those that produced homogeneous products of export interest to developing countries. It was also suggested that it might be appropriate to consider the competitiveness effects of new and emerging environmental policies, standards and regulations in sectors of export interest to developing countries, in particular where removal of non-tariff barriers had been negotiated in the Uruguay Round.

20. On the issue of economic instruments, three topics were identified for further research: (i) the trade and competitiveness effects of eco-taxes; (ii) the environmental effectiveness of border tax adjustment in the case of process taxes; and (iii) the trade effects of the use of regulatory versus incentive-based mechanisms in addressing environmental problems.

21. It was felt that empirical work on DPGs could add value to the work being done elsewhere, if it was able to document the concerns of developing countries including the least developed among them, and, in particular what type of goods caused them most concern.

II. Eco-labelling

22. The Group continued its deliberation on eco-labelling. Discussions were focused on three sets of issues: (i) trade, environment, and development effects of eco-labelling; (ii) the use of criteria related to process and production methods (PPMs); and (iii) measures to take account of developing countries' interests in determining eco-labelling criteria.

Trade, environment and development aspects

23. The Group discussed the purposes of eco-labelling. While eco-labelling programmes were established essentially for environmental purposes, they provided an opportunity for producers to market products on the basis of their environmental attributes.

24. As regards the extent to which eco-labels had contributed to reducing environmental stress in developed countries, it was noted that there were no systematic studies assessing the environmental effects of eco-labels. A range of factors was mentioned which might limit the potential contribution of eco-labels in the OECD countries to reducing environmental stress in developing countries.

25. It was noted that one of the purposes of eco-labels was to differentiate products on the basis of their environmental quality. It might spur innovation and increase the competitiveness of eco-labelled products. However, there was concern that eco-labelling might, at times, result in discrimination against foreign products, despite the voluntary nature of eco-labels.

26. Eco-labelling could adversely affect the competitiveness of unlabelled products. Thus the competitiveness of firms that found it difficult or costly to comply with the criteria might be adversely affected. The significance of such effects would depend, among other things, on the characteristics of the market. If eco-labels were important in the market-place, eco-labelling might complicate access to such markets.

27. It was noted that eco-labels were gaining importance in sectors of export interest to the developing countries. A number of delegations expressed concern about this trend and questioned the rationale for establishing eco-labelling criteria for products that were principally imported, in particular when such criteria related to the use of specific materials or PPMs.

Process and production methods (PPMs)

28. It was noted that technology-based criteria or specific criteria related to PPMs and materials which were based on environmental conditions and priorities in the importing country, could negatively affect imports, particularly from developing countries, where environmental and developmental conditions were substantially different from those in the importing country. While some delegations questioned the legitimacy of using PPM-related criteria

in the case of imported products, others mentioned that this issue should be looked into on a case-by-case basis. Moreover, it was stressed that the use of process-related criteria could raise issues of extraterritorial application of the environmental priorities of the importing country.

29. Some delegations mentioned that life-cycle analysis and the use of PPM-related criteria might be necessary to provide information to the consumer. Others questioned whether eco-labels, which did not take account of different environmental conditions in the country of production, could provide relevant information to the consumer.

Policy approaches

30. Delegations stressed that there was a need to make eco-labelling more sensitive to differing environmental and developmental conditions in different countries. In this context, some discussion focused on the appropriateness, effectiveness and cost-efficiency of eco-labels in the context of the country of production.

31. A number of delegations recognized that transparency in the context of eco-labelling could be furthered by the involvement of foreign producers in the determination of criteria. The importance of notification procedures was also stressed. Special measures might be needed to enable developing countries to take fuller advantage of existing transparency provisions. In this context, it was considered useful to identify products of export interest to developing countries, particularly the least developed among them, requiring special attention.

32. It was considered useful to explore further the scope for equivalencies and mutual recognition, including under the joint UNCTAD/UNEP programme of work. In this context, UNCTAD could focus on the developmental dimensions. In addition, cooperation between eco-labelling agencies was considered important. One delegation suggested that mutual recognition could be initiated in a pilot form, involving a small number of programmes and products.

33. A number of delegations mentioned that technical and financial assistance, as well as capacity-building efforts in the area of eco-labelling, could help in reducing the potential negative effects of eco-labelling on developing countries. Technical assistance was further needed to facilitate the effective participation of developing countries in future international deliberations on eco-labelling and in the process of the International Organization for Standardization (ISO).

III. Positive measures

34. On the basis of the interventions made by the delegations, a number of positive measures were listed by the secretariat for future consideration of the Group. It was suggested that the secretariat could make this list available to the group as a "non-paper" at a future date.

Annex II

PROVISIONAL AGENDA FOR THE THIRD SESSION OF THE AD HOC WORKING GROUP*

1. Adoption of the agenda and organization of work

2. Environment, international competitiveness and development: lessons from empirical studies

3. Newly emerging environmental policies with a possible trade impact: a preliminary discussion

4. Other business

5. Adoption of the report of the Ad Hoc Working Group on its third and final session to the Trade and Development Board in accordance with paragraph 9 of the Group's terms of reference.

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* As approved by the Working Group at its closing meeting (cf. para. 43 above).

Annex III

ATTENDANCE*

1. The following States members of UNCTAD, members of the Ad Hoc Working Group, were represented at the session:

Algeria
Argentina
Australia
Austria
Bangladesh
Canada
China
Costa Rica
Cuba
Czech Republic
Democratic People's Republic of Korea
Denmark
Egypt
Ethiopia
Finland
France
Germany
Ghana
Greece
Honduras
India
Indonesia
Iran (Islamic Republic of)
Japan
Libyan Arab Jamahiriya
Madagascar
Malaysia
Mexico
Morocco
Netherlands
Norway
Pakistan
Paraguay
Peru
Philippines
Poland
Portugal
Republic of Korea
Romania
Russian Federation
Slovakia
Sri Lanka
Switzerland
Thailand
Tunisia
Turkey
United Kingdom of Great Britain and Northern Ireland
United Republic of Tanzania
United States of America
Uruguay
Venezuela

2. The following States members of UNCTAD, not members of the Ad Hoc Working Group, were represented as observers at the session:

Bahrain
Belgium
Bolivia
Bulgaria
Cameroon
Chile
Ecuador
El Salvador
Iraq
New Zealand
Nicaragua
South Africa
Spain
Sudan
Sweden
Zimbabwe

3. The International Trade Centre UNCTAD/GATT was represented at the session.

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* For the list of participants, see TD/B/WG.6/INF.2

4. The following specialized and related agencies were represented at the session:

International Labour Organization
Food and Agriculture Organization of the United Nations
International Monetary Fund

The World Trade Organization was also represented at the session.

5. The following intergovernmental organizations were represented at the session:

Agency for Cultural and Technical Co-operation
European Community
League of Arab States
Organisation for Economic Co-operation and Development
Organization of African Unity
International Organization for Migration

6. The following non-governmental organizations were represented at the session:

General category

International Chamber of Commerce
International Council of Women
World Federation of United Nations Associations
International Organization for Standardization

Special category

International Union for Conservation of Nature and Natural Resources.

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Printed at United Nations, Geneva
GE.95-52603–August 1995–3,105

United Nations publication